

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

De'Marian A. Clemons,

Petitioner

v.

Jo Gentry, et al.,

Respondents

Case No. 2:17-cv-01041-JAD-GWF

Order Granting Motion to Lift Stay

ECF No. 36

De'Marian Clemons brings this habeas action seeking credits toward an earlier release from custody. Clemons now moves for a lift of the stay of this action, arguing that he has exhausted his state-court remedies.¹ The actual title of the motion is "Motion to Lift the Rule 60(b)." Rule 60(b) of the Federal Rules of Civil Procedure, allowing the court to grant relief from the judgment, is inapplicable because I stayed the action and did not enter judgment. Respondents do not oppose.² Good cause appearing and because there remains no purpose for the stay, I grant the motion.

IT THEREFORE IS ORDERED that the motion to lift stay [ECF No. 36] is **GRANTED**. The Clerk of the Court is directed to reopen this action and to lift the stay.

IT FURTHER IS ORDERED that **respondents have until January 28, 2021, to answer or otherwise respond to the petition** for a writ of habeas corpus. If respondents file a motion to dismiss, they must raise all potential affirmative defenses, including untimeliness, lack of

¹ ECF No. 36.

² ECF No. 38.

1 exhaustion, and procedural default. The court will not entertain successive motions to dismiss.
2 If respondents file an answer, they must comply with Rule 5 of the Rules Governing Section
3 2254 Cases in the United States District Courts. The briefing schedule of Local Rule LR 7-2 will
4 apply to any motion to dismiss. If respondents file an answer, then petitioner will have 45 days
5 from the date of filing of the answer to file a reply.

6 IT FURTHER IS ORDERED that, notwithstanding Local Rule LR IC 2-2(g), paper
7 copies of any electronically filed exhibits need not be provided to chambers or to the staff
8 attorney, unless later directed by the court.

9 Dated: December 14, 2020

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U.S. District Judge Jennifer A. Dorsey